

STATEMENT OF FACTS

On January 6, 2021, your affiant, Special Agent Kevin Palomino, was on duty and performing my official duties Special Agent with the United States Department of Homeland Security, Federal Protective Service, assigned to the Federal Bureau of Investigation (“FBI”), North Texas Joint Terrorism Task Force. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On January 8, 2021, the FBI received a referral from law enforcement indicating that an individual using the Twitter account “@garretamiller” posted a video from inside the U.S. Capitol. FBI agents viewed the video on Twitter, which was publicly-available. The video was posted on January 6, 2021 at about 6:56 p.m. It is fourteen seconds long and pans across a crowd who is inside the U.S. Capitol Rotunda, waving pro-Trump and American flags. The caption to the video is “From inside congress.”



A subpoena return related to the Twitter account “@garretamiller,” where the video was posted, revealed that the account is associated with a cellular telephone number that is registered to GARRET A. MILLER of Dallas County, Texas, which the FBI confirmed through an AT&T subpoena. The Twitter account “@garretamiller” is also associated with Facebook account “facebook.com/garret.a.miller.” That Facebook account is associated with the same phone number and lists the user’s birthday as the same birthday as MILLER.

In examining MILLER’s Facebook account, there are many posts relating to his involvement in criminal activities at the Capitol. For example, on January 2, 2021, MILLER posted to Facebook, “I am about to drive across the country for this trump shit. On Monday . . . Some crazy shit going to happen this week. Dollar might collapse. . . . civil war could start . . . not sure what to do in DC.” He also stated on January 3, 2021, that he was bring with him “a grappling hook and rope and a level 3 vest. Helmets mouth guard and bump cap,” but last time he came to D.C. for a pro-Trump rally he “had a lot of guns” with him.

On January 6, 2021, MILLER posted a selfie to his Facebook account garret.a.miller. In the selfie he is wearing a pro-Trump red hat and appears to be standing in a grassy area:



On January 11, 2021, MILLER posted to his Facebook account (garret.a.miller) a photograph of himself with another individual inside the U.S. Capitol building Rotunda. In the photograph he is wearing a pro-Trump hat and behind him is a statue from the Rotunda.



Your Affiant retrieved a driver's license photograph of MILLER, and as the driver's license photograph demonstrates, this appears to be the same person.



After MILLER posted the selfie above showing him inside the U.S. Capitol building, an individual on Facebook commented, "bro you got in?! Nice!," to which MILLER replied, "just wanted to incriminate myself a little lol."

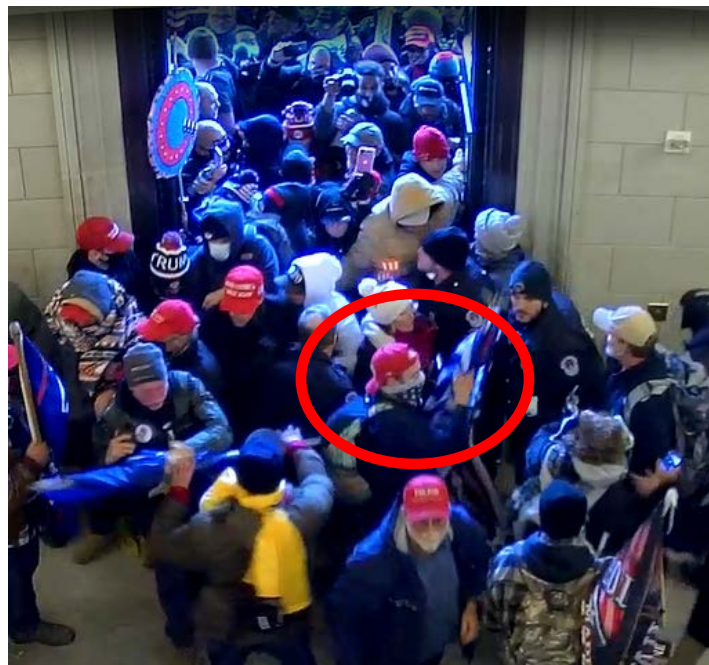
Additionally, surveillance video from inside the U.S. Capitol building on January 6, 2021, shows MILLER in the Capitol Rotunda at about 2:46 p.m. Screenshots from the video are below:





MILLER is wearing a backpack that appears to be patterned, a backwards red baseball hat, has what appears to be a balaclava around his neck, and is carrying two flags, an American flag and a pro-Trump flag.

A video of the entrance to the U.S. Capitol Rotunda shows a crowd of people pushing to get past U.S. Capitol Police officers, who are attempting to stop them from coming into the building. As seen in the screen capture of that video below, MILLER appears to be part of the crowd that pushes past the officers to gain entrance to the building:



After acknowledging his participation in the pro-Trump riots, multiple individuals commented to MILLER'S Facebook account. One individual tried to blame Antifa for the riots, but MILLER countered, "[Y]ou don't think we should have stormed the capital [sic]?"

Also, when asked on Facebook, “were you in the building?,” MILLER responded, “Yah . . . we charged . . . We where [sic] going in . . . No matter what . . . Decided before the trump speech . . . I charged the back gates myself with an anti masker.”

In addition to his Facebook posts, MILLER also posted about his activities at the Capitol on Twitter. On January 6, 2021, MILLER repeatedly posted comments on Twitter using his Twitter account (@garretamiller). In one tweet, an individual posted, “The people storming The Capitol are not Patriots. They are PAID INFILTRATORS,” to which MILLER responded, “Nah we stormed it. We where [sic] gentle. We where [sic] unarmed. We knew what had to be done. A beautiful soul was lost today. We must know her name. She will not be forgotten.”



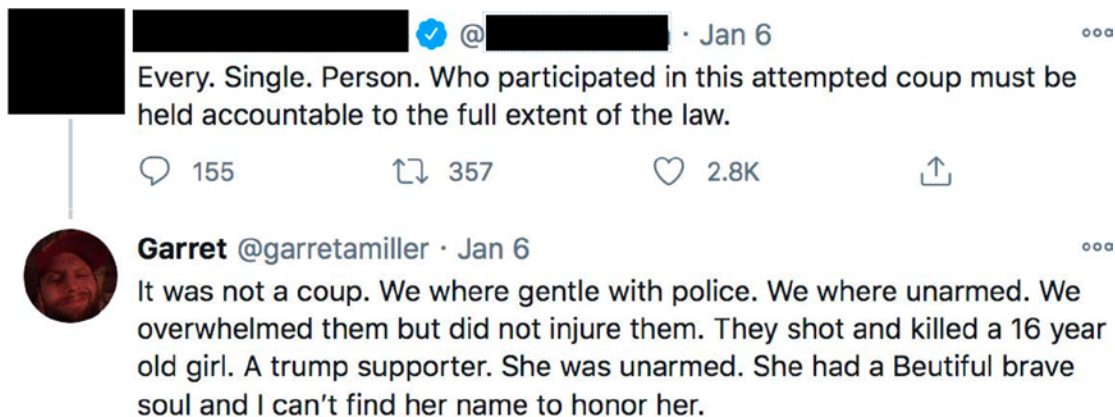
In another tweet, MILLER threatened, “They are right next time we bring the guns.”



In another, a Baptist pastor tweeted, “I am deeply saddened by what took place in our nation’s capital [sic] today. Our country is in trouble. We need God’s healing and we need God’s help. Pray for peace and the protection of our nation. Let’s come together—on our knees.” MILLER responded, “It was Beutiful [sic]. Wake the fuck up already!”



He also claimed in one tweet, “It was not a coup. We where [sic] gentle with police. We where [sic] unharmed. We overwhelmed them but did not injure them. . . .”



In a string of tweets to a U.S. House of Representatives member, MILLER first claims, “We acted with honor and we where [sic] not armed. We where [sic] gentle with the police. They murdered a child.” He then further directed, “Assassinate [House member].”



MILLER also posted about entering the Capitol on his Instagram account, which is associated with his Facebook account, “We stormed the capital [sic] as peacefully as we could without weapons . . . The congress building.” A few days later, MILLER admitted on Instagram that he “had a rope in [his] bag on that day.” He also posted to his Twitter account (@garretamiller) a photograph from the U.S. Capitol grounds and stated, “It was Beutiful! [sic] #Trump.” The photograph shows a large crowd of pro-Trump supporters in front of the U.S. Capitol building.



In addition to discussing his own actions at the Capitol, MILLER also discussed the shooting of a woman by a U.S. Capitol Police Officer during the pro-Trump riots on January 6, 2021. During that discussion on January 10, 2021, MILLER stated, “We going to get a hold of [the USCP officer] and hug his neck with a nice rope[.]” The individual with whom he was chatting responded, “Didn’t you say you were a Christian or some lie?” to which MILLER responded, “Justice . . . Not murder . . . Read the commandment . . . theres [sic] a difference.”

On January 16, 2021, MILLER again got into a discussion on Facebook, about the USCP officer and said that the officer is “not going to survive long.” MILLER claimed that “millions” of people agree with him that the officer “deserve[s] to die” “so its [sic] huntin season.” He then says that the woman who was killed “was a sister in battle were bravery achieve victory and she paid the ultimate price. . . . Dead serious she fought fir [sic] me, now I fight fir [sic] her[.]” He later claimed, “Well we got the traitor cop as a target and as long as we don’t shoot him we don’t get accused of firing the first shot. He shot first. His death prevents civil war by liberal history teller arguments.”

On January 15, 2021, MILLER admitted in a Facebook chat that he is “happy to make death threats so I been just off the rails tonight lol,” and is “happy to be banned now [from Twitter].” When asked whether the police know his name, he responded, “[I]t might be time for me to Be hard to locate.”

On January 15, 2021, FBI agents obtained a search warrant for MILLER’s cellphone number, the same number associated with his Facebook account, for prospective cell site and Global Positioning System (GPS) data. That same day, prospective location data showed the phone inside the house where MILLER lives according to a law enforcement database. MILLER had previously identified this same address as his home address in a Facebook chat from January 2, 2021. FBI agents also confirmed the next day that a van which is registered to MILLER, was parked in the driveway of the house.


Based on the foregoing, your affiant submits that there is probable cause to believe that GARRET A. MILLER violated 18 U.S.C. § 1752(a)(1)-(2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions.

Your affiant submits there is also probable cause to believe that MILLER violated 40 U.S.C. § 5104(e)(2)(G), which makes it a crime to willfully and knowingly (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that MILLER violated 18 U.S.C. § 1512(c)(2), which makes it a crime to corruptly otherwise obstruct, influence, or impede any official proceeding, or attempt to do so, or conspire to do so.

Your affiant further submits there is probable cause to believe that MILLER violated 18 U.S.C. § 875(c), which makes it a crime to “transmit in interstate . . . commerce any communication containing . . . any threat to injure the person of another.”

Your affiant submits there is probable cause to believe that MILLER violated 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any . . . law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects . . . the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

A handwritten signature in black ink, appearing to read 'Kevin Palomino', is written over a horizontal line.

KEVIN PALOMINO
Special Agent
Federal Protective Service
FBI Task Force Officer

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 19th day of January 2021.

Zia M. Faruqui
U.S. Magistrate Judge